

## Working on public holidays

Employees get paid at least their base pay rate for all hours worked on public holidays.

Awards, enterprise agreements and other ([www.fairwork.gov.au/Dictionary.aspx?TermID=2034](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2034)) registered agreements ([www.fairwork.gov.au/Dictionary.aspx?TermID=2034](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2034)) can provide entitlements for working public holidays, including:

- extra pay (eg. public holiday rates)
- an extra day off or extra annual leave
- minimum shift lengths on public holidays
- agreeing to substitute a public holiday for another day.

Find information about working on public holidays in your award by selecting from the list below.

Based on what you've told us, it looks like you're covered by the Clerks - Private Sector Award [MA000002].

An employee has to be paid public holiday rates for all time worked on a public holiday.

The exceptions are when a shiftworker starts work:

- between 11pm and midnight on a public holiday – they don't get paid public holiday rates between 11pm and midnight
- before midnight (eg. starts at 11pm) on the day before a public holiday – they get paid public holiday rates for the hours worked on the day before the public holiday.

To calculate public holiday pay rates, use our [Pay Calculator \(http://calculate.fairwork.gov.au/FindYourAward\)](http://calculate.fairwork.gov.au/FindYourAward) .

### Minimum hours on public holidays

Regardless of how long they actually work, when an employee works on a public holiday they have to be paid for a minimum of 4 hours of work at public holiday rates, so long as the employee is available to work those hours.

The minimum payment doesn't apply for shiftworkers when the work on a public holiday is continuous with the commencement or completion of the employee's ordinary shift.

Check the Clerks Award for the minimum daily hours when working overtime on a public holiday.

### Minimum hours on part-day public holidays

Minimum shifts or payments usually mean that an employee is entitled to be paid for a minimum number of hours per shift, even if they don't work the full shift.

This will usually apply for every time an employee attends work, even if a shift is spread across a public holiday and a non-public holiday.

### Substituting public holidays

An employer and an employee can agree to substitute a public holiday (or part-day public holiday) for another day.

If a public holiday is substituted, then the substitute day is regarded as the public holiday and penalty rates are only paid on the substitute day.

If both days are worked, employees can elect to be paid public holiday rates for the actual public holiday or the substituted public holiday, but not both.

Check the Clerks Award for other entitlements that can apply when working a public holiday.

To find out more about who this award applies to, go to the [Clerks Award summary \(www.fairwork.gov.au/awards-and-agreements/awards/award-summary/ma000002-summary\)](http://www.fairwork.gov.au/awards-and-agreements/awards/award-summary/ma000002-summary) .

Source reference: [Clerks - Private Sector Award \[MA000002\] clause 26, 28.1, 28.3 and 37](http://awardviewer.fwo.gov.au/award/show/MA000002) <sup>1</sup> (<http://awardviewer.fwo.gov.au/award/show/MA000002>)

## Requesting and refusing to work on public holidays

Employees don't have to work on a public holiday.

However, an employer can ask an employee to work on a public holiday, if the request is reasonable. An employee may refuse a request to work if they have reasonable grounds.

The following need to be taken into account when deciding if a request is reasonable:

- the employee's personal circumstances, (eg. family responsibilities)
- whether the employee will get more pay (eg. penalty rates)
- the needs of the workplace
- the type of work the employee does
- whether the employee's salary includes work on a public holiday
- whether the employee is full-time, part-time, casual or a shiftworker
- how much notice the employee was given about working
- the amount of notice the employee gives that they refuse to work.

When requesting that an employee work on a public holiday, employers need to consider all relevant circumstances, including the ones listed above.

Source reference: [Fair Work Act 2009 s.114 -116](http://www.comlaw.gov.au/Series/C2009A00028)  (<http://www.comlaw.gov.au/Series/C2009A00028>)

### Think a mistake might have been made?

Mistakes can happen. The best way to fix them usually starts with talking.

Check out our [Help resolving workplace issues \(www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues/default\)](http://www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues/default) section for practical advice on:

- figuring out if a mistake has been made
- talking to your employer or employee about fixing it
- getting help from us if you can't resolve it.

### What to do next

- Use our [Pay Calculator \(http://calculate.fairwork.gov.au/FindYourAward\)](http://calculate.fairwork.gov.au/FindYourAward) to find public holiday pay rates
- Find the [List of public holidays \(www.fairwork.gov.au/Leave/Public-holidays/List-of-public-holidays/default\)](http://www.fairwork.gov.au/Leave/Public-holidays/List-of-public-holidays/default) in your state or

territory

## Help for small business

- Find tools, resources and information you might need on our [Small business page \(www.fairwork.gov.au/Find-help-for/Small-business/default\)](http://www.fairwork.gov.au/Find-help-for/Small-business/default) .

## You might also be interested in

- [Not working on public holidays \(www.fairwork.gov.au/Leave/Public-holidays/not-working-on-public-holidays\)](http://www.fairwork.gov.au/Leave/Public-holidays/not-working-on-public-holidays)
- [Hours of work \(www.fairwork.gov.au/Employee-entitlements/hours-of-work-breaks-and-rosters/Hours-of-work/default\)](http://www.fairwork.gov.au/Employee-entitlements/hours-of-work-breaks-and-rosters/Hours-of-work/default)

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## Contact us

Fair Work Online: [www.fairwork.gov.au](http://www.fairwork.gov.au)

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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